

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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EFRAIN REYES CABRERA,

Plaintiff,

- against -

Civ. No.: 12-CV-6323 (ADS)(AKT)

DREAM TEAM TAVERN CORP. d/b/a  
TOMMY'S PLACE and THOMAS SCHAFER,

**JOINT PROPOSED VOIR DIRE  
QUESTIONS**

Defendants.

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Plaintiff Efrain Reyes Cabrera by and through his attorneys, FRANK & ASSOCIATES, P.C., jointly with Defendants Dream Team Tavern Corp. D/B/A Tommy's Place and Thomas Schafer, by and through its attorneys, GRUENBERG KELLY DELLA, respectfully submits the following proposed voir dire questions to be asked of prospective jurors by the Court:

**PROPOSED QUESTIONS TO BE ASKED OF PROSPECTIVE JURORS**

1. Please state whether you know, or have had any dealings, directly or indirectly, with any of the following individuals or any members of their families, or any of the following entities:

Efrain Reyes Cabrera

Dream Team Tavern Corp. D/B/A Tommy's Place

Thomas Schafer

Cindy Brabant

Eric Fitterer

Christian Baldwin

Peter Wisel

Alexis Torres

Rafael Cabrera

J. Weissman

Frank & Associates, P.C., Neil M. Frank or any current or past employees of Frank & Associates, P.C.

Gruenberg Kelly Della, Zachary M. Beriloff, Glenn Auletta, Sean Patrick Kelly or any current of past employees of Gruenberg Kella Della

2. Do you or anyone who is close to you have any involvement with Dream Team Tavern Corp. D/B/A Tommy's Place or Thomas Schafer? Have you or has anyone close to you ever been a guest or patron of Tommy's Place?
3. Do you or does anyone you know work in the food service industry?
4. Are you employed?
5. Where do you work?
6. How long have you worked there?
7. What is your job title?
8. What type of work do you do?
9. Do you have any experience as a manager or a supervisor?
10. Do you have any human resource experience?
11. Is your spouse or partner, if any, employed?
12. If so, where? What job?
13. If unemployed, how long and under what circumstances?
14. Do you have working children? If so, where? What job?
15. What is your educational background? How far did you go in school?
16. Have you ever been involuntarily terminated from a job? What were the circumstances?

17. Have you ever owned your own business? Have you ever owned an eating or drinking establishment? Has anyone close to you ever owner his/her own business? If yes, please identify who owns the business, briefly describe the business, and state whether that business has ever been sued before by a current or former employee. If so, please describe.
18. Has any employee who worked for you filed a claim against you as a result of his/her employment?
19. Have you ever worked at a job where you were paid on an hourly basis?
20. Have you ever worked in a non-exempt position?
21. Have you ever worked at a job where you received overtime pay?
22. The Plaintiff contends that he was not properly compensated for his overtime hours. The Defendants deny that Plaintiff is owed additional wages in this case. Is there anything in your life experience that would affect your ability to judge that type of issue fairly to both parties?
23. Do you think employees who sue corporations are troublemakers?
24. Have you or someone close to you ever sued an employer or filed a grievance against an employer? If so, what were the circumstances?
25. Have you ever had a dispute of any type with a supervisor or subordinate?
26. Have you or any member of your family been a party to a lawsuit? If so, please explain the circumstances and outcome.
27. Have you ever served on a jury before? If so, what was the nature of the case and did it go to a verdict?
28. In criminal matters, the prosecution has to prove its case beyond a reasonable doubt. In this civil case, the court will instruct you differently. Will you be able

to follow an instruction from the judge in this case that plaintiff must prove his case by a preponderance of the evidence? Do you have any personal objections to a rule of law that lets a person who bears the burden of proof recover in a civil case with a lesser degree of proof than is required in a criminal case?

29. Was there anything about your jury experience that left you with any kind of feeling about the legal profession or court system?
30. Have you ever testified in a legal proceeding? If yes, what were the circumstances?
31. Is there anything about being a juror that bothers you or that in any way would interfere with your ability to listen to the testimony, carefully deliberate, etc.?
32. Is there anything that you believe could affect your being an impartial juror or make it difficult to sit on this case?
33. Have you ever worked in a restaurant?
34. Have you ever worked in a kitchen in a restaurant?
35. Have you ever worked as a waiter?
36. Have you held a minimum hour wage job?
37. Have you have had to use a time card and time clock for your employment?
38. Did your time card have your name either written or typed on the time card?
39. Do you know anyone that has ever worked in a restaurant in either the kitchen or wait staff?
40. What type of experience do you or that person have in the restaurant?
41. Have you ever worked overtime?
42. Did you get paid for your overtime?
43. If you didn't get paid for overtime, what would you do?

44. Have you ever worked over 40 hours per week?
45. Were you paid additional for working over 40 hours per week?
46. If you were not paid for working over 40 hours per week, what, if anything did you do?
47. Have you ever testified in a Workman's Compensation hearing?
48. If yes, were you required to be sworn in under oath?
49. Have you filed a wage claim against any employer for unpaid wages?
50. What was the resolution?
51. Have you ever been paid off the books?
52. Have you ever been paid in just cash for your wages?
53. Do you have an issue with someone being paid their wages in cash only?
54. Are you open to the possibility that plaintiff may have a motive to be less than honest in this action? Why?
55. What types of testimony or conduct from the witness would cause you to doubt either party's truthful testimony?
56. What feelings, if any, do you have about witnesses that may change their testimony at that time trial as opposed to testimony given prior to trial?
57. Are you open to the possibility that the defendant may have motive to be less than honest in this action? Why?
58. How do you feel about witnesses be called to testify at the time of trial?
59. Are you open to the possibility that the plaintiff may have a motive to fabricate testimony in this trial? Why?
60. Are you open the possibility that the defendant may have a motive to fabricate testimony in this trial? Why?

61. Do you have any issues with the fact that plaintiff will be testifying through a Spanish interpreter?

62. Do you speak Spanish?

63. If so, how well do you speak Spanish?

64. If you speak Spanish well, will you only listen to the English translation and not use your own Spanish skills interpreting what the plaintiff states on the stand?

Dated: Farmingdale, New York  
July 29, 2015

*Respectfully submitted,*

FRANK & ASSOCIATES, P.C.

By:                     /s/                      
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